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James C. Houghton

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EXAMINER

CAMPBELL, KELLIE L

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/810,012 | Applicant(s) HOUGHTON ET AL. | |
| | Examiner KELLIE CAMPBELL | Art Unit 3691 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4,8,11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4,8,11 and 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a second, final Office Action on the merits in response to the reply filed on April 27, 2009. The previous final Office Action is withdrawn. Claims 1-23 were originally pending. Claims 24-33 were added but restricted by original presentation. In the instant action, Claims 1, 5-7, 9-10, 12, and 21-33 are cancelled. Claims 2-4, 8, 11, 13, 15, 17, and 18 are amended. Thus, Claims 2-4, 8, 11, and 18-20 are pending and presented for examination. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. **Therefore, the rejection of Claims 2-4, 8, 11, and 13-20 is a final rejection of the claims.**

Assignment of New Examiner

2. Kellie Campbell is now the assigned examiner for this application.

Claim Objections

3. Claim 11 is objected to because of the following informalities: "determining an initial percentage allocation of the trading fund for each tracking account" should be "determining an initial percentage allocation of the trading ~~fund~~ account for each tracking account". Appropriate correction is required.

4. Claim 11 is objected to because of the following informalities: "calculating the allocation percentage of trading accounts based on the revised contribution amounts" should be "calculating the allocation percentage of the trading ~~accounts~~ account based on the revised contribution amounts". Appropriate correction is required.

Response to Amendment

5. Applicant's cancellation of Claims 1 and 21 renders the 35 U.S.C. 101 rejection set forth in the previous Office action moot.

6. Applicant's amendments to claims 11 and 18 are sufficient to overcome the 35 U.S.C. 101 rejection set forth in the previous Office action. The rejection is hereby withdrawn for remaining Claims 2-4, 8, 11, 13-17 and 18-20.

Response to Arguments

7. Applicant's arguments with respect to claims 2-4, 8-11, 13-17 and 18-20 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

8. The restriction requirement set forth in the previous Office action for Claims 24-33 based on election by original presentation is moot in view of the cancellation of Claims 24-33.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 2, 4, 8, 11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,126,936 to Champion et al. (hereinafter Champion).**

11. **As per Claim 2**, Champion discloses the method of claim 11, wherein the investment fund is a hedge fund (Column 2, Lines 66-68 through Column 3, Lines 1-4, To implement the above investment strategies in a cost effective manner, an investment system is required that provides the efficiency and cost of a no-load mutual fund with the versatility of the options and futures contracts market.)

12. **As per Claim 4**, Champion discloses the method of claim 11, wherein the external lender is a prime broker for the investment fund (see Figure 2 and related text, broker-dealer).

13. **As per Claim 8**, Champion discloses the method of claim 11, further comprising, calculating, by the computer device, the allocation percentage of each tracking account during the trading cycle (Column 4, Lines 42-51; Column 5, Lines 47-51).

14. **As per Claim 11**, Champion discloses a computer-implemented method (see at least figure 2 and related text) for determining an allocation percentage of at least two tracking accounts within one investment fund (see at least Figure 1A-1E and related text), wherein each tracking account has a different maximum leverage ratio (see at least Figure 7A and related text; Column 4, Lines 7-11, Individual accounts are established in computer memory comprising a monetary valuation and a selected level of correspondence (risk) to changes of valuation of one or more asset groups in each account. The level of risk for each asset group is quantified by a market indicator

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referred to hereinafter as a market multiple or MM for that asset group.; Column 11, Lines 42-46, including for each account a selected proportionality factor, MM, indicative of the degree of correspondence between a valuation of said account and valuation of said capital market; Column 8, Lines 56-58, implied leverage, (ie. the amount of implied borrowing)), comprising:

calculating, by a computing device, an allocation percentage of a trading account for each tracking account (Column 4, Lines 66-68 through Column 5, Lines 1-3 For each participating investor, an account is opened with an initial deposit. These funds are deposited with a bank or similar establishment acting as trustee for the system proprietor. The composite position of the participating investors is calculated for each asset group offered by the system proprietor) to account for profits and losses of the trading account over a trading cycle based on the maximum leverage ratio of each tracking account and a contribution amount of each tracking account at the start of the trading cycle (Column 5, Lines 3-11, these asset group positions are then translated into investments in the marketplace by the system proprietor in a manner that guarantees a return to each participating investor corresponding to the implied "position" (MM) in that asset group. More particularly, the system proprietor is in communication with various exchanges or brokers and will place buy/sell orders in each asset group according to the aggregate level of exposure. Certain investors' choices of asset and MM, when aggregated, will result in no net purchases on the exchange, e.g., Customer A's position in U.S. stocks (long) will partially offset Customer B's position in U.S. stocks (short). Nevertheless, the system, as will be more fully discussed below, will provide both

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Customer A and Customer B with their selected level of correspondence to the U.S. stock market.) wherein calculating the allocation percentage comprises:

determining an initial percentage allocation of the trading fund for each tracking account at the start of the trading cycle based on the contribution amount of each tracking account at the start of the trading cycle (Column 4, Lines 66-68 through Column 5, Lines 1-3);

apportioning profits and losses of the trading account over the trading cycle to each tracking account based on the initial percentage allocation (see at least Figure 7B and related text; Column 5, Lines 58-61, Confirmation of the trade execution on the exchange is transmitted back to the system which then updates each account balance accordingly, with the end period information stored in memory.; Column 9, Lines 59-60, the system then determines the gain or loss (G/L) for this asset pursuant to Block 750);

determining a revised contribution amount for each tracking account based on the apportioned profits and losses (Column 4, Lines 42-51, The system automatically reduces the implied leverage in a customer's asset category whenever an adverse price change in that asset's market index has caused the category's "effective" MM (risk) to reach an unacceptably high level. The system aggregates the total level of risk for all customer accounts in each asset group and establishes a recommended net position in the appropriate futures contracts or hard assets for that asset group, to correspond to the aggregate risk level (i.e., aggregate MM). Column 10, Lines 1-26, updated accounts Finally, the effective multiple (MM.sub.EFF) is calculated, based on current index and equity in that asset (Block 770):
$$\text{MM.sub.EFF} = (\text{UNIT.sub.TOT} * \text{IDX}) / (\text{INV-CAP} + \text{G/L})$$

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(The system then determines if the effective multiple (MM.sub.EFF) is greater than the limit the system proprietor has set for effective multiples (MM.sub.LIMIT). If so, then (Block 790) the systems generates the order to "re-set" the effective multiple to the specified. This order is handled just like the customer had called in the same order and is executed by entering the order in Block 100. The above calculations are repeated for each transacted asset in the customer's account and for each customer requesting transactions that were effected during the most recent trade execution. The updated accounts are stored in memory and accessed according to need, e.g., monthly statements and account status requests.... The individual investors select the desired assets and level of risk exposure and the system creates an investment position in response thereto.); and

calculating the allocation percentage of the trading accounts based on the revised contribution amounts for each tracking account and the maximum leverage ratio for each tracking account (Column 4, Lines 42-51; Column 5, Lines 47-51, The CPU then performs an iterative calculation determining a required asset mix position for each account in response to the recently entered data for the operative period. The CPU aggregates the individual required trading positions for each account in each asset to determine a net trade in that asset group in response to all participants' requests and thereafter provides a recommended buy/sell order for execution in the marketplace.),

wherein the computing device comprises a processor (Column 5, Lines 40-41, CPU (central processing unit)) and a computer readable medium that stores instructions that when executed by the processor cause the computing device to calculate the

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allocation percentage of the trading account for each investor group (Column 5, Lines 5-7, the mass storage of the account data is preferably by magnetic storage media).

15. **As per Claims 13 and 20**, Champion discloses the method (and corresponding system) of claim 11, wherein calculating the allocation percentage of the trading account based on the revised contribution amounts for each tracking account and the maximum leverage ratio for each tracking account comprises:

for each tracking account, multiplying the revised contribution amount by the maximum leverage ratio for each tracking account to determine a leveraged contribution for each tracking account (Column 10, Lines 1-26);

summing the leveraged contribution for each tracking account; and
for each tracking account, dividing the leveraged contribution for the tracking account by the sum of the leveraged contributions for each tracking account (Column 10, Lines 1-26; Column 11, Lines 67-68, iteratively adjusts each investor account, pursuant to said asset transactions; c. Receiving adjustments to said account parameters and determining a position change for said investment accounts based thereon; d. Determining a total net position change for all participating investors at said market index value (IDX). e. Adjusting said account parameters responsive to said position change for said investment account.).

16. **As per Claim 18**, Champion discloses a system for determining an allocation percentage of at least two tracking accounts within one investment fund, wherein each tracking account has a different maximum leverage ratio, the system comprising a computing device that comprises a processor (Column 5, Lines 40-41, CPU (central

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processing unit)) and a computer readable medium that stores instructions Column 5, Lines 5-7, the mass storage of the account data is preferably by magnetic storage media).that when executed by the processor cause the computing device to calculate the allocation percentage of the at least two tracking accounts ((see at least figure 2 and related text) for determining an allocation percentage of at least two tracking accounts within one investment fund (see at least Figure 1A-1E and related text), wherein each tracking account has a different maximum leverage ratio (see at least Figure 7A and related text; Column 4, Lines 7-11, Individual accounts are established in computer memory comprising a monetary valuation and a selected level of correspondence (risk) to changes of valuation of one or more asset groups in each account. The level of risk for each asset group is quantified by a market indicator referred to hereinafter as a market multiple or MM for that asset group.; Column 11, Lines 42-46, including for each account a selected proportionality factor, MM, indicative of the degree of correspondence between a valuation of said account and valuation of said capital market; Column 8, Lines 56-58, implied leverage, (ie. the amount of implied borrowing)), comprising:

calculating an allocation percentage of a trading account for each tracking account (Column 4, Lines 66-68 through Column 5, Lines 1-3 For each participating investor, an account is opened with an initial deposit. These funds are deposited with a bank or similar establishment acting as trustee for the system proprietor. The composite position of the participating investors is calculated for each asset group offered by the system proprietor) to account for profits and losses of the trading account

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over a trading cycle based on the maximum leverage ratio of each tracking account and a contribution amount of each tracking account at the start of the trading cycle (Column 5, Lines 3-11, these asset group positions are then translated into investments in the marketplace by the system proprietor in a manner that guarantees a return to each participating investor corresponding to the implied "position" (MM) in that asset group. More particularly, the system proprietor is in communication with various exchanges or brokers and will place buy/sell orders in each asset group according to the aggregate level of exposure. Certain investors' choices of asset and MM, when aggregated, will result in no net purchases on the exchange, e.g., Customer A's position in U.S. stocks (long) will partially offset Customer B's position in U.S. stocks (short). Nevertheless, the system, as will be more fully discussed below, will provide both Customer A and Customer B with their selected level of correspondence to the U.S. stock market.)

17. **As per Claim 19**, Champion discloses the system of claim 18, wherein the computing device is programmed to calculate the allocation percentage by:

determining an initial percentage allocation of the trading fund for each tracking account at the start of the trading cycle based on the contribution amount of each tracking account at the start of the trading cycle (Column 4, Lines 66-68 through Column 5, Lines 1-3);

apportioning profits and losses of the trading account over the trading cycle to each tracking account based on the initial percentage allocation (see at least Figure 7B and related text; Column 5, Lines 58-61, Confirmation of the trade execution on the exchange is transmitted back to the system which then updates each account balance

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accordingly, with the end period information stored in memory.; Column 9, Lines 59-60, the system then determines the gain or loss (G/L) for this asset pursuant to Block 750);

determining a revised contribution amount for each tracking account based on the apportioned profits and losses (Column 4, Lines 42-51, The system automatically reduces the implied leverage in a customer's asset category whenever an adverse price change in that asset's market index has caused the category's "effective" MM (risk) to reach an unacceptably high level. The system aggregates the total level of risk for all customer accounts in each asset group and establishes a recommended net position in the appropriate futures contracts or hard assets for that asset group, to correspond to the aggregate risk level (i.e., aggregate MM). Column 10, Lines 1-26, updated accounts Finally, the effective multiple (MM.sub.EFF) is calculated, based on current index and equity in that asset (Block 770): $MM.sub.EFF = (UNIT.sub.TOT * IDX) / (INV-CAP + G/L)$ (The system then determines if the effective multiple (MM.sub.EFF) is greater than the limit the system proprietor has set for effective multiples (MM.sub.LIMIT). If so, then (Block 790) the systems generates the order to "re-set" the effective multiple to the specified. This order is handled just like the customer had called in the same order and is executed by entering the order in Block 100. The above calculations are repeated for each transacted asset in the customer's account and for each customer requesting transactions that were effected during the most recent trade execution. The updated accounts are stored in memory and accessed according to need, e.g., monthly statements and account status requests.... The individual investors select the desired

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assets and level of risk exposure and the system creates an investment position in response thereto.); and

calculating the allocation percentage of the trading accounts based on the revised contribution amounts for each tracking account and the maximum leverage ratio for each tracking account (Column 4, Lines 42-51; Column 5, Lines 47-51, The CPU then performs an iterative calculation determining a required asset mix position for each account in response to the recently entered data for the operative period. The CPU aggregates the individual required trading positions for each account in each asset to determine a net trade in that asset group in response to all participants' requests and thereafter provides a recommended buy/sell order for execution in the marketplace.),

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over**

Champion in view Official Notice.

20. **As per Claim 3**, Champion does not expressly disclose the method of claim 11, wherein the end of the trading cycle coincides with the end of a subscription/redemption cycle of the investment fund.

However, Examiner takes Official Notice that the end of trading cycles typically coincide with the end of a subscription/redemption cycle of an investment fund.

21. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Champion in view U.S. Patent No. 5,802,499 to Sampson et al. (hereinafter Sampson).

22. As per Claim 14-17, Champion does not expressly disclose the method of claim 13, further comprising, when one of the tracking accounts triggers a margin call from an external lender during the trading cycle, the investors of the tracking account on call contributing additional capital to the fund.

However, Sampson teaches a margin call requiring an investor to contribute additional capital to the fund (Column , Lines , As illustrated in FIG. 14B, the GCSS will thereafter automatically notify a customer of the need to bring more assets into the system to meet new, higher credit support requirements, as well as to cover an adverse movement in the value of priorly provided credit support assets. This is the equivalent of a "margin call". During this shortfall/EXCESS Notification Period, the GCSS will also notify a customer of an excess of credit support assets.) Column 3, Lines 33-38, A further object of the present invention is to provide such a system in which multiple information processing cycles are employed so that the system can be used simultaneously by hundreds of parties to credit support agreements who may be physically located anywhere around the globe (i.e., in Europe, America, and Asia alike) without being subject to prejudices or disadvantages).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Champion with the teachings of Sampson so that , when one of the tracking accounts triggers a margin call from an external lender during the trading cycle, the investors of the tracking account on call contributing additional capital to the fund in order to meet the requirements of a mark-to-market accounting system as taught by Sampson (Column 1, Lines 54, calculate mark to market values (MTM)) where the investor must bring the account up to the initial margin or ensure minimum maintenance requirements.

23. **As per Claim 15**, Champion does not expressly disclose the method of claim 14, further comprising, calculating, by the computing device, the allocation percentage of each tracking account intra-cycle, prior to the investors of the tracking account on call contributing additional capital to the fund.

However, Sampson teaches allocating credit support assets of member parties to the system in order to cover the credit exposures thereof (Column 8, Lines 1-4) and periodic reporting of positions (Column 84, Lines 63-67 through Column 84, Lines 1-7, Credit exposure and asset management are facilitated by the GCSS periodically reporting to each customer on the following matters: available positions, i.e., customer's own securities/cash which it originated into the system and which are not in use; amounts delivered out, grouped by secured party and agreement number; amounts received, grouped by transferor and agreement number; amounts on-transferred, subdivided by the IDs of transferor and on-transferee, and agreement numbers; new credit

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support amounts expected in from counterparties; new credit support amounts required ("margin call"); and exceptions (shortages not yet adjusted, etc.).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Champion with the teachings of Sampson to include calculating, by the computing device, the allocation percentage of each tracking account intra-cycle, prior to the investors of the tracking account on call contributing additional capital to the fund in order to allow other investor groups to transfer assets to meet the margin call as taught by Sampson (Column 83, Lines 57-59, Credit support assets can be transferred between GCSS customers (i.e., counterparties to a credit support agreement) by issuing asset movement instructions to the LCS system.).

24. **As per Claim 16**, Champion does not expressly disclose the method of claim 13, further comprising, when one of the tracking accounts triggers a margin call from an external lender during the trading cycle, the fund liquidating assets from the trading account.

However, Sampson teaches a margin call where an investor is required to cover an adverse movement in the valuation of assets (Column 84, Lines 34-41, As illustrated in FIG. 14B, the GCSS will thereafter automatically notify a customer of the need to bring more assets into the system to meet new, higher credit support requirements, as well as to cover an adverse movement in the value of priorily provided credit support assets. This is the equivalent of a "margin call". During this shortfall/EXCESS Notification Period, the GCSS will also notify a customer of an excess of credit support

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assets.; Column 3, Lines 33-38, A further object of the present invention is to provide such a system in which multiple information processing cycles are employed so that the system can be used simultaneously by hundreds of parties to credit support agreements who may be physically located anywhere around the globe (i.e., in Europe, America, and Asia alike) without being subject to prejudices or disadvantages).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Champion with the teachings of Sampson so that when one of the tracking accounts triggers a margin call from an external lender during the trading cycle, the fund liquidating assets from the trading account to cover losses incurred by the fund when the investor does not have the assets to contribute to the account to meet the margin call.

25. **As per Claim 17**, Champion does not expressly disclose the method of claim 13, further comprising, when one of the tracking accounts triggers a margin call from an external lender during the trading cycle, calculating, prior to the end of the trading cycle, by the calculating device, the allocation percentage of the trading account for each investor group.

However, Sampson teaches allocating credit support assets of member parties to the system in order to cover the credit exposures thereof (Column 8, Lines 1-4) and periodic reporting of positions (Column 84, Lines 63-67 through Column 84, Lines 1-7, Credit exposure and asset management are facilitated by the GCSS periodically reporting to each customer on the following matters: available positions, i.e., customer's own securities/cash which it originated into the system and which are not in use;

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amounts delivered out, grouped by secured party and agreement number; amounts received, grouped by transferor and agreement number; amounts on-transferred, subdivided by the IDs of transferor and on-transferee, and agreement numbers; new credit support amounts expected in from counterparties; new credit support amounts required ("margin call"); and exceptions (shortages not yet adjusted, etc.).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Champion with the teachings of Sampson so that when one of the tracking accounts triggers a margin call from an external lender during the trading cycle, calculating, prior to the end of the trading cycle, by the calculating device, the allocation percentage of the trading account for each investor group in order to give investors a chance to meet margin requirements and change trading strategy.

26. **As per Claim 18**, Champion discloses a system for determining an allocation percentage of at least two tracking accounts within one investment fund, wherein each tracking account has a different maximum leverage ratio, the system comprising

a computing device that comprises a processor and a computer readable medium that stores instructions that when executed by the processor cause the computing device to calculate the allocation percentage of the at least two tracking accounts by

calculating an allocation percentage of a trading account of the investment fund for each tracking account to account for profits and losses of the trading account over *,he a

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trading cycle based on the maximum leverage ratio of each tracking account and *,he a contribution amount of each tracking account at the start of the trading cycle.

27. **As per Claim 19**, the system of claim 18, wherein the computing device is programmed to calculate the allocation percentage by:

determining an initial percentage allocation of the trading fund for each tracking account at the start of the trading cycle based on the contribution amount of each tracking account at the start of the trading cycle;

apportioning profits and losses of the trading account over the trading cycle to each tracking account based on the initial percentage allocation;

determining a revised contribution amount for each tracking account based on the apportioned profits and losses; and

calculating the allocation percentage of the trading account based on the revised contribution amounts for each tracking account.

28. **As per Claim 20**, the system of claim 19, wherein the computing device is programmed to calculate the allocation percentage of the trading account based on the revised contribution amounts for each tracking account by:

for each tracking account, multiplying the revised contribution amount by the maximum leverage ratio for each tracking account to determine a leveraged contribution for each tracking account;

summing the leveraged contribution for each tracking account; and for each tracking account, dividing the leveraged contribution for the tracking account by the sum of the leveraged contributions for each tracking account.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLIE CAMPBELL whose telephone number is 571-270-5495. The examiner can normally be reached on Mon - Thur, 9:00am - 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ALEXANDER KALINOWSKI can be reached on 571-271-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/

Supervisory Patent Examiner, Art Unit 3691